

INTERNATIONAL SEARCH REPORT

International Application No
PCT/EP2004/003736

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A23L1/30 A23L1/308 A61K35/74 A61K31/702

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A23L A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the International search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ, FSTA, BIOSIS, CHEM ABS Data, EMBASE

C. DOCUMENTS CONSIDERED TO BE RELEVANT

| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
|------------|---|-----------------------|
| P, X | WO 03/033681 A (BROSTOFF JONATHAN ; GIBSON GLENN R (GB); UNIV READING (GB); WYNNE ANTH) 24 April 2003 (2003-04-24) cited in the application the whole document | 1-18 |
| A | DATABASE WPI Section Ch, Week 200301 Derwent Publications Ltd., London, GB; Class B04, AN 2003-013662 XP002290436 & RU 2 190 015 C1 (PARTNER STOCK CO) 27 September 2002 (2002-09-27) abstract | 1-18 |
| | ----- -/- | |

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

- *A* document defining the general state of the art which is not considered to be of particular relevance
- *E* earlier document but published on or after the international filing date
- *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- *O* document referring to an oral disclosure, use, exhibition or other means
- *P* document published prior to the international filing date but later than the priority date claimed

- *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- *&* document member of the same patent family

Date of the actual completion of the international search

30 July 2004

Date of mailing of the international search report

12/08/2004

Name and mailing address of the ISA

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| C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT | | |
|--|---|-----------------------|
| Category * | Citation of document, with indication, where appropriate, of the relevant passages | Relevant to claim No. |
| A | OKKERS D J ET AL: "CHARACTERIZATION OF PENTOCIN TV35B, A BACTERIOCIN-LIKE PEPTIDE ISOLATED FROM LACTOBACILLUS PENTOSUS WITH A FUNGISTATIC EFFECT ON CANDIDA ALBICANS" November 1999 (1999-11), JOURNAL OF APPLIED MICROBIOLOGY, OXFORD, GB, PAGE(S) 726-734 , XP009006853 ISSN: 1364-5072 abstract; figure 4; table 1 | 1-18 |
| A | EP 1 195 095 A (ST IVEL LTD) 10 April 2002 (2002-04-10) page 3, paragraph 21-25; claims 1-6,20,21 | 1-18 |
| A | US 6 203 797 B1 (PERRY STEPHEN C) 20 March 2001 (2001-03-20) claims 1,3; examples 1,2 | 1-18 |
| A | EP 1 010 372 A (NOVARTIS NUTRITION AG ; MENDES SRL (IT)) 21 June 2000 (2000-06-21) claims 1,2,5,7,14; examples 1,2,4 page 3, paragraphs 16,17,28 - page 4, paragraph 29 | 1-18 |

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Box II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 13-16 (partially)
because they relate to subject matter not required to be searched by this Authority, namely:
Although claims 13-16 are directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the composition.
2. ☒ Claims Nos.: 1-18 (partially)
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
see FURTHER INFORMATION sheet PCT/ISA/210
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
☐ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

Continuation of Box II.1

Although claims 13-16 are directed to a method of treatment of the human/animal body, the search has been carried out and based on the alleged effects of the composition.

Continuation of Box II.1

Claims Nos.: 13-16 (partially)

Rule 39.1(iv) PCT - Method for treatment of the human or animal body by therapy

Continuation of Box II.2

Claims Nos.: 1-18 (partially)

Present claims 1-18 relate to an extremely large number of possible compounds ("or an equivalent Lactobacillus strain"). Moreover the claims cover all compounds having this characteristic or property, whereas the application provides support within the meaning of Article 6 PCT and/or disclosure within the meaning of Article 5 PCT for only a very limited number of such compounds. In the present case, the claims so lack support, and the application so lacks disclosure and the claims contain so many options, that a meaningful search over the whole of the claimed scope is impossible. Independent of the above reasoning, the claims also lack clarity (Article 6 PCT). Consequently, the search has been carried out for those parts of the application which do appear to be clear (and concise), namely Lactobacillus strain NCIMB 41114.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No
PCT/EP2004/003736

| Patent document cited in search report | | Publication date | Patent family member(s) | Publication date |
|---|----|---------------------|--|--|
| WO 03033681 | A | 24-04-2003 | CA 2459572 A1 WO 03033681 A2 EP 1436380 A2 | 24-04-2003 24-04-2003 14-07-2004 |
| RU 2190015 | C1 | 27-09-2002 | NONE | |
| EP 1195095 | A | 10-04-2002 | GB 2369777 A EP 1195095 A2 | 12-06-2002 10-04-2002 |
| US 6203797 | B1 | 20-03-2001 | NONE | |
| EP 1010372 | A | 21-06-2000 | IT MI982692 A1 AU 721430 B1 CA 2292325 A1 CN 1262872 A EP 1010372 A2 JP 2000175615 A KR 2000048129 A US 2002044990 A1 ZA 9907630 A | 15-06-2000 06-07-2000 15-06-2000 16-08-2000 21-06-2000 27-06-2000 25-07-2000 18-04-2002 15-06-2000 |